

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TONY DELGUERICO, et al.	:	
	:	
Plaintiffs	:	
	:	
v.	:	No. 02-CV-3453
	:	
SPRINGFIELD TOWNSHIP, et al.	:	
	:	
Defendants,	:	

ORDER

AND NOW this _____ day of _____, 2004, upon consideration of Plaintiffs' request for Entry of Default Judgment, it is hereby ORDERED and DECREED that said Motion is DENIED.

BY THE COURT:

J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TONY DELGUERICO, et al.	:	
	:	
Plaintiffs	:	
	:	
v.	:	No. 02-CV-3453
	:	
SPRINGFIELD TOWNSHIP, et al.	:	
	:	
Defendants,	:	

DEFENDANTS' REPLY TO PLAINTIFFS' REQUEST
FOR ENTRY OF DEFAULT

Defendants, Springfield Township, Jeffrey Mease, Peter Lamana, Rodney Wieder, James Hopkins, Robert Zisko, and Charles Halderman, Jr., (hereinafter, "the Springfield Township Defendants" or "Defendants") by and through counsel, Wright & O'Donnell, P.C., hereby respond to Plaintiffs' Request for Entry of Default against Defendants and aver as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted. By way of further response, the Court Ordered that any dispositive motions must be filed on or before July 7, 2004. By way of further response, on April 15, 2004, the Court conducted a settlement conference at which time the Plaintiffs and Springfield Township Defendants agreed in principal, without finalizing the terms, to settle this case.
5. Admitted. By way of further response, the parties have been in continued settlement discussions, and Plaintiffs have filed a Motion to Enforce Settlement Agreement. Defendants contend that the instant Motion is a negotiation tool of Plaintiff in an effort to procure a better

settlement agreement.

Defendants have filed, at the same time as the instant Reply, a Motion for Leave to file an Answer pursuant to Rule 6.

6. It is admitted that Rule 55(a) reads in part as quoted. It is denied, however, that the Springfield Township Defendants have “failed to plead **or** otherwise defend.” By way of further Answer, Rule 55(c) provides that “for good cause shown, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60(b).”

Furthermore, Rule 6(b)(2) provides that the court “upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect. . .”

7. Denied.

WHEREFORE, for the reasons cited above, and for the reasons cited in the pending Motion for Leave, Defendants’ respectfully request that the Honorable Court deny Plaintiffs’ request.

Respectfully submitted,

WRIGHT & O’DONNELL, P.C.

BY: /s/ David M. Maselli

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was filed with the Court via the Electronic Case Filing system and was served on the below listed of counsel of record through the same means or by U.S. Mail, postage pre-paid, this 26th day of August, 2004.

Neil A. Morris, Esquire
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Mellon Bank Center
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/s/ David M. Maselli
David M. Maselli